

# Torah Table Talk – *The Observant Life* Illness, Disease or Affliction

Medical Ethics by Rabbi Avram Israel Reisner, Page 751

*Parshat Tazria-Metzora*, Leviticus 12:1-15:33

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## I. Introduction

Rabbi Reisner begins his excellent discussion of Jewish medical ethics in The Observant Life by pointing out that the mandate to heal is not at all self-evident in the biblical tradition. While the sages found a biblical citation for the commandment to heal others and to provide medical care, from their perspective and from the perspective of the Bible, disease is part of the will of God. What right do we have to interfere with God's inscrutable will?

In this week's *parshah* we learn about the symptomology of a strange disease called *tzara'at*, incorrectly translated as leprosy. The word *nega* frequently used to describe this illness (*nega tzara'at*) is best translated as affliction, implying that the disease is afflicted on someone by divine will. Levine writes that *nega*, "means 'touch' and reflects the widespread, ancient belief that gods afflicted people by their touch." The sages did not reject this idea; Miriam, sister of Moses, was afflicted with *tzara'at* for speaking critically of her brother! In the Rabbinic tradition, *tzara'at* is associated with gossip or slander. Virtually every rabbi has used these *parshiot* to speak about the evils of gossip. And yet, there's something disturbing about connecting illness with moral evil. Either illness is or isn't the will of God; and if we presume that it is, how do we reconcile the right and even the responsibility to heal with our willing acceptance of God's will?

In presenting the symptomology and treatment of *tzara'at*, however, the Torah does not pass judgment on the patient. It treats the disease clinically, whatever its origins might be. Furthermore, the sages wrestled with the whole question of balancing risk with benefit in the treatment of illness. It is clear from sources that Judaism favors life, and that risks can be taken to save a life.

**II Kings 7:3-4** There were four men, lepers, outside the gate. They said to one another: Why should we sit here waiting for death? If we decide to go into the town, what with the famine in the town, we shall die there. Come let us desert to the Aramean camp. If they let us live, we shall live; and if they shall put us to death, we shall but die.

## II. Sources and Resources

- a) Generally speaking, all disease was regarded as a punishment from God for some wrongdoing. In the case of *tzara'at* specifically, there was a tradition that it represented a punishment from God for acts of malice such as Miriam's malicious criticism of Moses, reported in Numbers 12:1-3. (*Baruch A Levine, The JPS Torah Commentary, Leviticus*)
- b) Rabbi Ishmael and Rabbi Akiva were walking through the streets of Jerusalem and met a sick man who asked them: "How can I be cured?" They answered: "Do thus and so until you are cured." He said to them: But who afflicted me? "The Holy One," they answered. "So how can you interfere in a matter which is not your concern? God afflicted me and you heal?" The Rabbis then asked: "What is your vocation?" "I am a tiller of the soil. Here is the vine cutter in my hand." They asked: "But who created the vineyard?" "The Holy One." "Well, you interfered with the vineyard which is not yours. He created and you cut away its fruit?" they asked "But were I not allowed to plow and till and fertilize and weed, the vineyard would not produce any fruit," he explained. "So," they responded, "from your own work have you not learned what is written, 'As for man, his days are as grass.' (Ps. 103:15) Just as a tree, if not weeded, fertilized, and plowed will not grow and bring forth its fruit, so with the human body. The fertilizer is the medicine and the means of healing, and the tiller of the earth, the physician. (*Midrash Temurah in J.D. Eisenstein, Otzar Midrashim; quoted in Feldman, Health and Medicine in the Jewish Tradition*)

c) **Mishnah:** We allow heathens to heal us when the healing relates to money but not personal healing.

**Gemara:** What is HEALING RELATING TO MONEY and what is PERSONAL HEALING? Shall we say that HEALING RELATING TO MONEY means for payment and PERSONAL HEALING free? Then the Mishnah should have said: "We may allow them to heal us for payment but not free!" HEALING RELATING TO MONEY must mean where no danger is involved and PERSONAL HEALING where there is danger. But has not Rav Judah said: Even a scar over the puncture caused by bleeding should not be healed by them? HEALING RELATING TO MONEY therefore relates to one's cattle, and PERSONAL HEALING to one's own body, about which Rav Judah said that even a scar over the puncture caused by bleeding should not be healed by them. Said Rabbi Hisda in the name of Mar 'Ukba: But if a heathen physician on being consulted says to one that such and such medicine is good for him and such and such medicine is bad for him, it is permitted to follow his advice for he will think that he is merely asking him, and just as he is asking him so he will also ask others, so that that man by giving wrong advice would have his reputation spoilt. Raba said in the name of R. Johanan: In the case where it is doubtful whether the patient will live or die, we must not allow heathen doctors to heal; but if he will certainly die, we may allow them to heal. Surely, there is still "*An hour of life*" (*hayyei sha'ah* see source d) to be considered! *An hour of life* is not to be considered significant. What authority have do you for saying that *an hour of life* is not to be considered significant? Scripture: "If we say: we will enter into the city, then the famine is in the city, and we shall die there." (II Kings 7:4) Now there is the life of the hour which they might forfeit! This implies that the life of the hour is not to be considered. (*BT Avodah Zarah 27b*)

d) ***Hayyei sha'ah*:** Literally, "An hour of life:" Judaism so values life that the sages are not willing to forfeit even "an hour of life." ***As in the following*:** "A dying man or woman is like a flickering candle when touched by humans it is snuffed out. Therefore the eyes of the dying are not to be closed. They may not be stirred lest it hastens their death." In Pirkei Avot 4:22, "One hour in this world is better than eternal life in the world to come." (*my note*)

e) ***We don't worry about an hour of life*:** Yet we have learned in *Masechet Yoma*, "We remove stones that have fallen upon a man on the Sabbath (thus desecrating the Sabbath) because we worry about even an hour of life?" We do so both here (in the case of the heathen doctor) and there (in the case of desecrating the Sabbath) it is for the good of the patient. In the case of the Sabbath he will most certainly die if one doesn't remove the stones. In the case of the heathen doctor, if the person will certainly die if one doesn't try to heal him, the risk is better than to allow him to die. In both case we follow the certainty over the doubt. (*Tosafot on BT Avodah Zarah 27b*)

### III. Reflections

We begin our study of medical ethics with a verse from this week's *haftorah*. Jerusalem is under siege, the people are starving, but the lepers (*metzoraim*) are still excluded from the city, caught in no-man's land between Jerusalem and the Aramean army. Even under these extreme conditions the leper is an outsider hovering between life and death. Michael Fishbane writes, "Medical analysis indicates that the disease as described in the Bible is neither leprosy nor what we know as psoriasis." Whatever it might be, people with this scaly condition were isolated from society both because they were considered spiritually impure and because in some way they were the subject of a divine plague. But then, so were the people of Jerusalem at this moment!

We see in the sources above conflicting attitudes toward illness. On the one hand, illness is seen as a form of divine retribution; after all, both good and bad came from God. If that is the case, then one might assume that there is virtue in suffering and bearing an affliction that came from God. Rabbi Reisner suggests that this attitude can be found among classical and medieval Jewish thinkers. And yet this is not the prevailing attitude. Whatever the source of illness, we have a responsibility to treat it and to care for the patient with compassion and caring. This is seen as a biblical mandate. Healing an afflicted person is compared to returning a person's lost property; we are returning their health to them. Similarly, drawing on the laws of damages which state that one who injures another must provide for their medical treatment, the sages concluded that one may provide health care (*rapo yirapeh in Exodus 21:19*). In the Midrash above (source

b), treating illness is compared to pruning a tree or caring for a garden. God may be the creator but we are the caretakers and our actions have the potential to improve and increase the quality of life.

There are so many other questions that are raised in Rabbi Reisner's insightful analysis of the issue of medical ethics. The committee on Jewish Law and Standards of the Conservative Movement has addressed and continues to address these issues as our knowledge expands and our attitudes change. Medical ethics is not simply a matter of what the Torah says but how our knowledge of the human body and the science and art of healing continue to evolve. Organ transplantation, end of life issues, abortion and health care are all issues of deep concern to us as Jews and have a long history of discussion in our literature. Because Judaism is a religion that celebrates and sanctifies life, we devote a great deal of time to look more closely at questions that define both the beginning and end of life as well as questions of how we care for and promote life in the middle.

The verse from the book of Kings above, interestingly, is the source of a principle of medical ethics, as Rabbi Reisner points out in his essay. The question is, how does one balance risk taking and medical care in the Jewish tradition. Almost every medical treatment involves some element of risk; this is as true today as it was in the time of Nahmanides. The Talmud discusses the question of seeking medical care in the case of reaching out to a non-Jew. Possibly because attitudes toward life and death were so different from one another, and because there was an element of hostility toward Jews in non-Jewish society, the Mishnah questions whether or not one should go to a heathen doctor. The Mishnah offers a brief statement which the Talmud questions: what do healing relating to money and personal healing mean? After offering several interpretations of these phrases, the Talmud asks the question do we have the same doubts about seeking medical treatment in the case of someone whose death is inevitable and imminent? Or do we say that "even an hour of life" is better than risking what little time we have? Raba's perspective that we allow the heathen doctor to heal in such cases is based on the verse from today's haftorah! Since the lepers were willing to risk their lives (by entering the Aramean camp) rather than starve to death, we can conclude that in critical cases risk can be assumed even if it might result in death. Attitudes about non-Jewish doctors aside, the *Tosafot*, one of the commentaries on the Talmud, (source e) argues that risk can be undertaken when it is 'in the interest of the patient (*litovato*).' But there is no simple equation for balancing risk and treatment, as Reisner points out. Here one can only consult the sources, a rabbinic authority, one's family, and one's own subjective feelings on the manner.

This discussion (discussed at length in *The Observant Life*) is a good example of how the Rabbinic tradition gives the means for engaging in a discussion of medical ethics through our way of life. It doesn't necessarily answer all our questions but it offers us principles and language with which to view these issues.

#### IV. Halakhah L'Ma'aseh Quotes from Medical Ethics:

- In commenting on Exodus 21:19, which serves as the primary source for permission to heal, Abraham Ibn Ezra (1089-1164) notes that such permission is not necessarily the same as the command to heal: "I am of the opinion," Ibn Ezra writes, "that one should rely directly on the creator and not one's own wisdom, whether through astrology or medicine..."
- Maimonides, however wrote strongly to the contrary in his commentary to Mishnah, Nedarim 4:4. Himself a physician, he embraced the therapeutic arts and in so doing, insisted that there is an absolute mandate to heal, not solely the half-hearted permission to do so....Happily, to my mind, Maimonides' thinking carried the day.
- What are the halakhic standards for weighing the risk for potential harm against the likelihood of potential benefit so as to make a reasonable determination regarding how to proceed? ... Each case must be evaluated according to its own specifics. Several factors will inevitably weigh into the equation... the most important are..the precise situation, the specific beliefs of the attending physician, the patient, and practically speaking, the family and friends who are involved in the patient's care.
- If a doctor pushes a treatment, even a fully established treatment (i.e. *r'fuah b'dukah*) upon an unwilling patient, the Talmud appears to rule that the patient might be forced to cooperate. Nevertheless, Rabbi Jacob Emden (1697-1776) ruled that even in that case the patient's autonomy is paramount.

- The patient's autonomy is limited by the prohibition of knowingly shortening one's life, or even knowingly causing oneself damage. Another such limitation on autonomy of the dying patient specifically stems from concern for the best interests of the patient, when the medical ethic of beneficence and the modern liberal ethic of personal autonomy collide.... Halakhic authorities to this day largely hold by the order precedents that support the belief that bad news is harmful and should be avoided...

### **Questions to Ponder**

1. What does the story of the lepers in this week's haftorah say about biblical attitudes toward illness? In what ways do the lepers turn out to be the heroes of this story? Why?
2. We see that there was a discussion in the Middle Ages over whether illness should be respected as an act of God or whether we do should whatever is in our power to treat illness. What theological argument can be made for treating illness?
3. The Talmud concludes that it is permissible to treat illness but we are not mandated to do so. How does this attitude allow for personal autonomy and decision making on the part of the patient?
4. Should a patient ever be "forced" to seek therapeutic means of healing or should individual autonomy always come first?
5. Is honesty always the best policy when revealing the details of an illness to the patient? Who has a right, if anyone, to withhold information "in the interest of the patient?"
6. Frequently, People ask that a *mi sh'berakh* be made in synagogue for someone who is ill. What should our expectations be when we pray for healing?

### **Next week's Torah Table Talk: Same Sex Relationships, Page 657**

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